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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/281,443	05/19/2014	Andrea KALAS	40205/05602	4599
30636	7590	11/28/2016	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			KIM, TAEOR	
			ART UNIT	PAPER NUMBER
			2156	
			MAIL DATE	DELIVERY MODE
			11/28/2016	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANDREA KALAS, SEAN VILBERT,  
ERIKA MCPHERSON, and VITALIY VAYSBERG

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Appeal 2016-001931  
Application 14/281,443  
Technology Center 2100

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Before KRISTEN L. DROESCH, LINZY T. McCARTNEY, and  
KAMRAN JIVANI, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims  
1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

## STATEMENT OF THE CASE

The present patent application concerns “systems and methods for media asset preservation.” Spec. ¶ 20. Claim 1 illustrates the claimed subject matter:

1. A method, comprising:
  - preparing a digital file for ingest into an asset management system;
  - storing a plurality of copies of the digital file based on a set of storage policies for the digital file;
  - performing a health check on an integrity of content for each copy of the digital file; and
  - performing an asset repair on each copy of the digital file that failed the health check.

## REJECTION

Claims 1–20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Brockway et al. (US 2010/0100528 A1; Apr. 22, 2010) and Baumeister et al. (US 2001/0034786 A1; Oct. 25, 2001).

## ANALYSIS

We have reviewed the Examiner’s rejection in light of Appellants’ arguments, and we disagree with Appellants that the Examiner erred. To the extent consistent with the analysis below, we adopt the Examiner’s findings, reasoning, and conclusions set forth in the Final Rejection, Advisory Action, and Answer. Appellants have waived arguments they failed to timely raise or properly develop. *See* 37 C.F.R. §§ 41.37(c)(1)(iv), 41.41(b)(2).

Appellants contend the cited art fails to teach or suggest “performing a health check on an integrity of content for each copy of the digital file” as

recited in claim 1. Appellants argue performing a health check on “the integrity of ‘content’ as recited in the claims is in no way equivalent to the file level verification provided by traditional backup storage systems as described in Brockway” because “content” refers to “the actual data of the media.” Reply Br. 3–4 (citing Spec. ¶¶ 3, 21–22). According to Appellants, Brockway “compares only metadata associated with the copy and the original files without comparing the data content of these files” and “does not require *perfect copies* to be made.” App. Br. 5. Appellants assert Brockway “does not describe or suggest that the metadata includes the content of the files themselves” and “the metadata of Brockway is not related to the actual content of the file.” *Id.*; Reply Br. 4.

We find Appellants’ arguments unpersuasive. Contrary to Appellants’ arguments, the cited paragraphs of the written description do not define “content” as “the actual data of the media.” Rather, these paragraphs describe, at best, non-limiting *examples* of “file based original content” and “original content” and restate various claim limitations. *See* Spec. ¶¶ 3, 21–22. Similarly, other portions of the description cited by Appellants describe prior art preservation systems and certain aspects of the claimed invention, but the cited portions do not explicitly define “content,” much less define the term in the manner argued by Appellants. *See id.* ¶¶ 25, 27–28, 54. Moreover, claim 1 does not recite “comparing the data content of these files” or require producing “perfect copies” of files as suggested by Appellants. Claim 1 simply recites “producing a health check on an integrity of content for each copy of the digital file.” Appellants’ arguments on these points are therefore incommensurate with the scope of claim 1.

The Examiner concluded the disputed limitation encompasses “performing a check of corruption or loss of data on the integrity of data contained in a file.” Ans. 4. Appellants’ arguments have not persuaded us this construction is erroneous. As found by the Examiner, Brockway teaches performing such a “health check.” Brockway discloses that it was well known to “check the secondary copy [of electronic data] to ensure the secondary content is accurate.” Brockway ¶ 15. Brockway teaches that “[g]enerally, the check includes steps such as analyzing each data item copied and comparing it to the original data, fingerprint hash, or segment of data.” *Id.*

Brockway also describes an improved method of verifying data that involves comparing sets of file metadata. *Id.* ¶ 51. Brockway teaches that “[t]he first set of metadata and the second set of metadata may be compared to determine whether the sets of metadata are similar, equivalent, *or otherwise indicate that the underlying data which generated the metadata are substantially similar.*” *Id.* (emphasis added). This approach is consistent with the claims, which indicates that “performing a health check” includes comparing metadata. For example, claim 5, which depends from claim 1, recites “wherein the health check is based on a reliable digital fingerprint for each copy of the digital file.” App. Br. 11. Indeed, Appellants acknowledge “the exemplary embodiments describe health checks for data in digital files utilizing some form of metadata.” Reply Br. 4. Although Appellants assert “the metadata of Brockway is not related to the actual content of the file,” Appellants have not provided persuasive evidence or reasoning to support this assertion. In any event, claim 1 does not explicitly require that metadata relate to the file contents.

For the above reasons, we agree with the Examiner that Brockway teaches or suggests the “performing a health check” limitation at issue. Appellants also contend that Baumeister fails to teach or suggest this limitation and that one of ordinary skill in the art would not have been motivated to combine Baumeister with Brockway. *See App. Br. 7–9.* Even if we were to agree with Appellants on these points, we would not be persuaded the Examiner erred. The Examiner found Brockway alone teaches or suggests the subject matter recited in claim 1. *See Ans. 4–9.* Appellants have only challenged this finding to the extent Appellants argued Brockway does not teach or suggest the “performing a health check” limitation, and for reasons discussed above, Appellants have not persuaded us this conclusion is erroneous.

#### DECISION

We affirm the Examiner’s rejection of claims 1–20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED